

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

September 7, 2004

Memorandum To:

Multifamily Hubs and Field Offices

Performance Based Contract Administrators

From:

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Director, Office of Multifamily Housing

Assistance-Restructuring (OMHAR)

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Multifamily Housing Programs

Subject:

OMHAR Transition, OGC Legal Opinion, and Job Aides for the

HUD Multifamily Field Offices and Performance Based

Contract Administrators

We are pleased to announce that Secretary Alphonso Jackson and Assistant Secretary and FHA Commissioner John C. Weicher have established a permanent successor to the Office of Multifamily Housing Assistance Restructuring (OMHAR), effective October 1, 2004. To reflect current and future duties to be assigned to it, the new organization will be named the Office of Affordable Housing Preservation (OAHP), with a Director at the Deputy Assistant Secretary level, reporting to the Office of Housing and the FHA Commissioner. An OAHP organizational chart is enclosed. The Department will be staffing the OAHP positions over the coming weeks.

In the years ahead, thousands of Section 8 HAP contracts will expire and be renewed by the Multifamily Field Offices and PBCAs. As you know, when a HAP contract expiration approaches, a project's rent comps are reviewed by you to determine eligibility for Mark-to-Market (M2M). (The M2M program, currently administered by OMHAR, will be administered by OAHP beginning October 1.) As part of the ongoing Communications and Coordination activities between OMHAR/OAHP, the Multifamily Field Offices, and PBCA's, we are enclosing a Pocket Asset Referral Guide, which was distilled from the Section 8 Renewal Guide and OMHAR's Operating Procedures Guide (OPG). The Pocket Guide describes the referral process and the documents necessary to refer an asset to OMHAR. It also briefly describes the OMHAR process, goals of the M2M program, and contacts for obtaining additional information. Web-based information sites for OMHAR are featured as reference points for all stakeholders.

Outstanding questions regarding M2M eligibility criteria have recently been clarified by HUD's Office of General Counsel (OGC). In its recent opinion, OGC stated that a property is eligible for M2M and restructuring at the renewal of its HAP contract, whether expiration of its original 20-year HAP contract or its 5-year renewal contract, if its contract rents are

above comparable market rents, and other eligibility requirements are met. (Prior to the OGC opinion, it was not clear if eligibility determinations had to be made at the time of expiration of the original HAP contract.) This opinion broadens the scope of potential referrals to include projects OMHAR had previously been unable to accept. Projects affected by this opinion also include properties financed by state and local bonds as long as they are above market, have project based Section 8, and an FHA insured first mortgage.

A reprint of an article in the current edition of the NAHMA News is also attached and outlines the incentives for owners who are eligible for the Mark To Market Program.

Lastly, we are also enclosing a separate list of 11 of the most common errors on Appraisers' Rent Comparability Studies (RCS's) compiled for owners' contract renewal submissions. Chapter 9 of the Section 8 Renewal Guide, together with its Appendices, will provide you with additional information.

We hope that the job aides are useful and look forward to building on the good working relationships between Multifamily Housing and OMHAR as the new OAHP takes shape.